

Introduced by Senator Lowenthal

January 13, 2005

An act to amend Sections 12001 and 12071 of, and to add Section 12043 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 59, as introduced, Lowenthal. Firearms: loss and theft.

Existing law defines “firearm” and provides that for certain purposes, including certain offenses, “firearm” includes the frame or receiver of the weapon.

This bill would provide that the term “firearm” includes the frame or receiver of the weapon for purposes of the offense of failure to report a stolen or lost firearm.

Existing law generally regulates the possession of firearms.

This bill would make it an infraction for any person whose handgun is stolen or irretrievably lost to fail, within 5 working days after his or her discovery or knowledge of, or within 5 working days after the date he or she should reasonably have known of, the theft or loss, to report the theft or loss to a local law enforcement agency of the jurisdiction in which the theft or loss occurred or in which the person resides.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law generally regulates firearms dealers, and requires them to post specified signs at their places of business.

This bill would require firearms dealers to post a sign warning that any person who fails to report the loss or theft of a handgun to law enforcement within 5 days after the loss or theft may be guilty of an infraction.

This bill would make other technical nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12001 of the Penal Code is amended to
2 read:

3 12001. (a) (1) As used in this title, the terms “pistol,”
4 “revolver,” and “firearm capable of being concealed upon the
5 person” shall apply to and include any device designed to be used
6 as a weapon, from which is expelled a projectile by the force of
7 any explosion, or other form of combustion, and that has a barrel
8 less than 16 inches in length. These terms also include any device
9 that has a barrel 16 inches or more in length which is designed to
10 be interchanged with a barrel less than 16 inches in length.

11 (2) As used in this title, the term “handgun” means any
12 “pistol,” “revolver,” or “firearm capable of being concealed upon
13 the person.”

14 (b) As used in this title, “firearm” means any device, designed
15 to be used as a weapon, from which is expelled through a barrel a
16 projectile by the force of any explosion or other form of
17 combustion.

18 (c) As used in Sections 12021, 12021.1, 12043, 12070, 12071,
19 12072, 12073, 12078, 12101, and 12801 of this code, and
20 Sections 8100, 8101, and 8103 of the Welfare and Institutions
21 Code, the term “firearm” includes the frame or receiver of the
22 weapon.

23 (d) For the purposes of Sections 12025 and 12031, the term
24 “firearm” also shall include any rocket, rocket propelled
25 projectile launcher, or similar device containing any explosive or
26 incendiary material whether or not the device is designed for
27 emergency or distress signaling purposes.

28 (e) For purposes of Sections 12043, 12070, 12071, and
29 paragraph (8) of subdivision (a), and subdivisions (b), (c), (d),

1 and (f) of Section 12072, the term “firearm” does not include an
2 unloaded firearm that is defined as an “antique firearm” in
3 Section 921(a)(16) of Title 18 of the United States Code.

4 (f) Nothing shall prevent a device defined as a “handgun,”
5 “pistol,” “revolver,” or “firearm capable of being concealed upon
6 the person” from also being found to be a short-barreled shotgun
7 or a short-barreled rifle, as defined in Section 12020.

8 (g) For purposes of Sections 12551 and 12552, the term “BB
9 device” means any instrument that expels a projectile, such as a
10 BB or a pellet, not exceeding 6mm caliber, through the force of
11 air pressure, gas pressure, or spring action, or any spot marker
12 gun.

13 (h) As used in this title, “wholesaler” means any person who is
14 licensed as a dealer pursuant to Chapter 44 (commencing with
15 Section 921) of Title 18 of the United States Code and the
16 regulations issued pursuant thereto who sells, transfers, or
17 assigns firearms, or parts of firearms, to persons who are licensed
18 as manufacturers, importers, or gunsmiths pursuant to Chapter 44
19 (commencing with Section 921) of Title 18 of the United States
20 Code, or persons licensed pursuant to Section 12071, and
21 includes persons who receive finished parts of firearms and
22 assemble them into completed or partially completed firearms in
23 furtherance of that purpose.

24 “Wholesaler” shall not include a manufacturer, importer, or
25 gunsmith who is licensed to engage in those activities pursuant to
26 Chapter 44 (commencing with Section 921) of Title 18 of the
27 United States Code or a person licensed pursuant to Section
28 12071 and the regulations issued pursuant thereto. A wholesaler
29 also does not include those persons dealing exclusively in grips,
30 stocks, and other parts of firearms that are not frames or receivers
31 thereof.

32 (i) As used in Section 12071, 12072, or 12084, “application to
33 purchase” means any of the following:

34 (1) The initial completion of the register by the purchaser,
35 transferee, or person being loaned the firearm as required by
36 subdivision (b) of Section 12076.

37 (2) The initial completion of the LEFT by the purchaser,
38 transferee, or person being loaned the firearm as required by
39 subdivision (d) of Section 12084.

1 (3) The initial completion and transmission to the department
2 of the record of electronic or telephonic transfer by the dealer on
3 the purchaser, transferee, or person being loaned the firearm as
4 required by subdivision (c) of Section 12076.

5 (j) For purposes of Section 12023, a firearm shall be deemed
6 to be “loaded” whenever both the firearm and the unexpended
7 ammunition capable of being discharged from the firearm are in
8 the immediate possession of the same person.

9 (k) For purposes of Sections 12021, 12021.1, 12025, 12043,
10 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and
11 Sections 8100, 8101, and 8103 of the Welfare and Institutions
12 Code, notwithstanding the fact that the term “any firearm” may
13 be used in those sections, each firearm or the frame or receiver of
14 the same shall constitute a distinct and separate offense under
15 those sections.

16 (l) For purposes of Section 12020, a violation of that section as
17 to each firearm, weapon, or device enumerated therein shall
18 constitute a distinct and separate offense.

19 (m) Each application that requires any firearms eligibility
20 determination involving the issuance of any license, permit, or
21 certificate pursuant to this title shall include two copies of the
22 applicant’s fingerprints on forms prescribed by the Department
23 of Justice. One copy of the fingerprints may be submitted to the
24 United States Federal Bureau of Investigation.

25 (n) As used in this chapter, a “personal handgun importer”
26 means an individual who meets all of the following criteria:

27 (1) He or she is not a person licensed pursuant to Section
28 12071.

29 (2) He or she is not a licensed manufacturer of firearms
30 pursuant to Chapter 44 (commencing with Section 921) of Title
31 18 of the United States Code.

32 (3) He or she is not a licensed importer of firearms pursuant to
33 Chapter 44 (commencing with Section 921) of Title 18 of the
34 United States Code and the regulations issued pursuant thereto.

35 (4) He or she is the owner of a ~~pistol, revolver, or other~~
36 ~~firearm capable of being concealed upon the person~~ *handgun*.

37 (5) He or she acquired that ~~pistol, revolver, or other firearm~~
38 ~~capable of being concealed upon the person~~ *handgun* outside of
39 California.

1 (6) He or she moves into this state on or after January 1, 1998,
2 as a resident of this state.

3 (7) He or she intends to possess that ~~pistol, revolver, or other~~
4 ~~firearm capable of being concealed upon the person handgun~~
5 within this state on or after January 1, 1998.

6 (8) The ~~pistol, revolver, or other firearm capable of being~~
7 ~~concealed upon the person handgun~~ was not delivered to him or
8 her by a person licensed pursuant to Section 12071 who
9 delivered that firearm following the procedures set forth in
10 Section 12071 and subdivision (c) of Section 12072.

11 (9) He or she, while a resident of this state, had not previously
12 reported his or her ownership of that ~~pistol, revolver, or other~~
13 ~~firearm capable of being concealed upon the person handgun~~ to
14 the Department of Justice in a manner prescribed by the
15 department that included information concerning him or her and
16 a description of the firearm.

17 (10) The ~~pistol, revolver, or other firearm capable of being~~
18 ~~concealed upon the person handgun~~ is not a firearm that is
19 prohibited by subdivision (a) of Section 12020.

20 (11) The ~~pistol, revolver, or other firearm capable of being~~
21 ~~concealed upon the person handgun~~ is not an assault weapon, as
22 defined in Section 12276 or 12276.1.

23 (12) The ~~pistol, revolver, or other firearm capable of being~~
24 ~~concealed upon the person handgun~~ is not a machinegun, as
25 defined in Section 12200.

26 (13) The person is 18 years of age or older.

27 (o) For purposes of paragraph (6) of subdivision (n):

28 (1) Except as provided in paragraph (2), residency shall be
29 determined in the same manner as is the case for establishing
30 residency pursuant to Section 12505 of the Vehicle Code.

31 (2) In the case of members of the Armed Forces of the United
32 States, residency shall be deemed to be established when he or
33 she was discharged from active service in this state.

34 (p) As used in this code, “basic firearms safety certificate”
35 means a certificate issued by the Department of Justice pursuant
36 to Article 8 (commencing with Section 12800) of Chapter 6 of
37 Title 2 of Part 4, prior to January 1, 2003.

38 (q) As used in this code, “handgun safety certificate” means a
39 certificate issued by the Department of Justice pursuant to Article

1 8 (commencing with Section 12800) of Chapter 6 of Title 2 of
2 Part 4, as that article is operative on or after January 1, 2003.

3 (r) As used in this title, “gunsmith” means any person who is
4 licensed as a dealer pursuant to Chapter 44 (commencing with
5 Section 921) of Title 18 of the United States Code and the
6 regulations issued pursuant thereto, who is engaged primarily in
7 the business of repairing firearms, or making or fitting special
8 barrels, stocks, or trigger mechanisms to firearms, or the agent or
9 employee of that person.

10 SEC. 2. Section 12043 is added to the Penal Code, to read:

11 12043. (a) Any person whose handgun is stolen or
12 irretrievably lost on or after January 1, 2006, shall, within five
13 working days after his or her discovery or knowledge of, or
14 within five working days after the date he or she should
15 reasonably have known of, the theft or loss, report the theft or
16 loss to a local law enforcement agency of the jurisdiction in
17 which the theft or loss occurred or in which the person resides.

18 (b) Any person who violates subdivision (a) is guilty of an
19 infraction punishable as follows:

20 (1) For a first violation of this section, by a fine not to exceed
21 one hundred dollars (\$100).

22 (2) For a second or subsequent violation of this section, by a
23 fine not to exceed two hundred and fifty dollars (\$250).

24 (c) Any person who complies with subdivision (a) shall be
25 immune from any civil liability for the illicit use or possession of
26 the firearm occurring after the theft or loss. This subdivision shall
27 not apply if the person had prior knowledge of the misconduct or
28 was negligent with respect to the theft or loss of the firearm.

29 (d) No charge may be imposed for submitting a report
30 pursuant to this section.

31 SEC. 3. Section 12071 of the Penal Code is amended to read:

32 12071. (a) (1) As used in this chapter, the term “licensee,”
33 “person licensed pursuant to Section 12071,” or “dealer” means a
34 person who has all of the following:

35 (A) A valid federal firearms license.

36 (B) Any regulatory or business license, or licenses, required
37 by local government.

38 (C) A valid seller’s permit issued by the State Board of
39 Equalization.

1 (D) A certificate of eligibility issued by the Department of
2 Justice pursuant to paragraph (4).

3 (E) A license issued in the format prescribed by paragraph (6).

4 (F) Is among those recorded in the centralized list specified in
5 subdivision (e).

6 (2) The duly constituted licensing authority of a city, county,
7 or a city and county shall accept applications for, and may grant
8 licenses permitting, licensees to sell firearms at retail within the
9 city, county, or city and county. The duly constituted licensing
10 authority shall inform applicants who are denied licenses of the
11 reasons for the denial in writing.

12 (3) No license shall be granted to any applicant who fails to
13 provide a copy of his or her valid federal firearms license, valid
14 seller's permit issued by the State Board of Equalization, and the
15 certificate of eligibility described in paragraph (4).

16 (4) A person may request a certificate of eligibility from the
17 Department of Justice and the Department of Justice shall issue a
18 certificate to an applicant if the department's records indicate that
19 the applicant is not a person who is prohibited from possessing
20 firearms.

21 (5) The department shall adopt regulations to administer the
22 certificate of eligibility program and shall recover the full costs
23 of administering the program by imposing fees assessed to
24 applicants who apply for those certificates.

25 (6) A license granted by the duly constituted licensing
26 authority of any city, county, or city and county, shall be valid
27 for not more than one year from the date of issuance and shall be
28 in one of the following forms:

29 (A) In the form prescribed by the Attorney General.

30 (B) A regulatory or business license that states on its face
31 "Valid for Retail Sales of Firearms" and is endorsed by the
32 signature of the issuing authority.

33 (C) A letter from the duly constituted licensing authority
34 having primary jurisdiction for the applicant's intended business
35 location stating that the jurisdiction does not require any form of
36 regulatory or business license or does not otherwise restrict or
37 regulate the sale of firearms.

38 (7) Local licensing authorities may assess fees to recover their
39 full costs of processing applications for licenses.

1 (b) A license is subject to forfeiture for a breach of any of the
2 following prohibitions and requirements:

3 (1) (A) Except as provided in subparagraphs (B) and (c), the
4 business shall be conducted only in the buildings designated in
5 the license.

6 (B) A person licensed pursuant to subdivision (a) may take
7 possession of firearms and commence preparation of registers for
8 the sale, delivery, or transfer of firearms at gun shows or events,
9 as defined in Section 478.100 of Title 27 of the Code of Federal
10 Regulations, or its successor, if the gun show or event is not
11 conducted from any motorized or towed vehicle. A person
12 conducting business pursuant to this subparagraph shall be
13 entitled to conduct business as authorized herein at any gun show
14 or event in the state without regard to the jurisdiction within this
15 state that issued the license pursuant to subdivision (a), provided
16 the person complies with (i) all applicable laws, including, but
17 not limited to, the waiting period specified in subparagraph (A)
18 of paragraph (3), and (ii) all applicable local laws, regulations,
19 and fees, if any.

20 A person conducting business pursuant to this subparagraph
21 shall publicly display his or her license issued pursuant to
22 subdivision (a), or a facsimile thereof, at any gun show or event,
23 as specified in this subparagraph.

24 (C) A person licensed pursuant to subdivision (a) may engage
25 in the sale and transfer of firearms other than pistols, revolvers,
26 or other firearms capable of being concealed upon the person, at
27 events specified in subdivision (g) of Section 12078, subject to
28 the prohibitions and restrictions contained in that subdivision.

29 A person licensed pursuant to subdivision (a) also may accept
30 delivery of firearms other than pistols, revolvers, or other
31 firearms capable of being concealed upon the person, outside the
32 building designated in the license, provided the firearm is being
33 donated for the purpose of sale or transfer at an auction or similar
34 event specified in subdivision (g) of Section 12078.

35 (D) The firearm may be delivered to the purchaser, transferee,
36 or person being loaned the firearm at one of the following places:

37 (i) The building designated in the license.

38 (ii) The places specified in subparagraph (B) or (c).

1 (iii) The place of residence of, the fixed place of business of,
2 or on private property owned or lawfully possessed by, the
3 purchaser, transferee, or person being loaned the firearm.

4 (2) The license or a copy thereof, certified by the issuing
5 authority, shall be displayed on the premises where it can easily
6 be seen.

7 (3) No firearm shall be delivered:

8 (A) Within 10 days of the application to purchase, or, after
9 notice by the department pursuant to subdivision (d) of Section
10 12076, within 10 days of the submission to the department of any
11 correction to the application, or within 10 days of the submission
12 to the department of any fee required pursuant to subdivision (e)
13 of Section 12076, whichever is later.

14 (B) Unless unloaded and securely wrapped or unloaded and in
15 a locked container.

16 (C) Unless the purchaser, transferee, or person being loaned
17 the firearm presents clear evidence of his or her identity and age
18 to the dealer.

19 (D) Whenever the dealer is notified by the Department of
20 Justice that the person is in a prohibited class described in
21 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
22 the Welfare and Institutions Code. The dealer shall make
23 available to the person in the prohibited class a prohibited notice
24 and transfer form, provided by the department, stating that the
25 person is prohibited from owning or possessing a firearm, and
26 that the person may obtain from the department the reason for the
27 prohibition.

28 (4) No pistol, revolver, or other firearm or imitation thereof
29 capable of being concealed upon the person, or placard
30 advertising the sale or other transfer thereof, shall be displayed in
31 any part of the premises where it can readily be seen from the
32 outside.

33 (5) The licensee shall agree to and shall act properly and
34 promptly in processing firearms transactions pursuant to Section
35 12082.

36 (6) The licensee shall comply with Sections 12073, 12076, and
37 12077, subdivisions (a) and (b) and paragraph (1) of subdivision
38 (f) of Section 12072, and subdivision (a) of Section 12316.

1 (7) The licensee shall post conspicuously within the licensed
2 premises the following warnings in block letters not less than one
3 inch in height:

4 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY
5 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
6 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND
7 USES IT, RESULTING IN INJURY OR DEATH, OR
8 CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY
9 OF A MISDEMEANOR OR A FELONY UNLESS YOU
10 STORED THE FIREARM IN A LOCKED CONTAINER OR
11 LOCKED THE FIREARM WITH A LOCKING DEVICE, TO
12 KEEP IT FROM TEMPORARILY FUNCTIONING."

13 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER
14 FIREARM CAPABLE OF BEING CONCEALED UPON THE
15 PERSON, WITHIN ANY PREMISES UNDER YOUR
16 CUSTODY OR CONTROL, AND A PERSON UNDER 18
17 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND
18 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A
19 MISDEMEANOR, UNLESS YOU STORED THE FIREARM
20 IN A LOCKED CONTAINER, OR LOCKED THE FIREARM
21 WITH A LOCKING DEVICE, TO KEEP IT FROM
22 TEMPORARILY FUNCTIONING."

23 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY
24 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND
25 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO
26 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A
27 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY
28 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE
29 OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS
30 YOU STORED THE FIREARM IN A LOCKED CONTAINER,
31 OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

32 (D) "DISCHARGING FIREARMS IN POORLY
33 VENTILATED AREAS, CLEANING FIREARMS, OR
34 HANDLING AMMUNITION MAY RESULT IN EXPOSURE
35 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
36 DEFECTS, REPRODUCTIVE HARM, AND OTHER
37 SERIOUS PHYSICAL INJURY. HAVE ADEQUATE
38 VENTILATION AT ALL TIMES. WASH HANDS
39 THOROUGHLY AFTER EXPOSURE."

(E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE ~~PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON~~ HANDGUN WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE ~~PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON~~ HANDGUN WITHIN ANY 30-DAY PERIOD.”

(G) “*IF YOUR HANDGUN IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LAW ENFORCEMENT AGENCY WITHIN FIVE WORKING DAYS AFTER YOUR DISCOVERY OF THE LOSS OR THEFT, OR YOU MAY BE GUILTY OF AN INFRACTION.*”

(8) (A) ~~Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.~~

~~(B)~~ Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

~~(C)~~
(B) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders

1 indicating assignment within this state, or other evidence of
2 residency as permitted by the Department of Justice. The
3 firearms dealer shall retain a photocopy of the documentation as
4 proof of compliance with this requirement.

5 ~~(D)~~

6 (C) Commencing January 1, 2003, except as authorized by the
7 department, no firearms dealer may deliver a handgun unless the
8 recipient performs a safe handling demonstration with that
9 handgun. The demonstration shall commence with the handgun
10 unloaded and locked with the firearm safety device with which it
11 is required to be delivered, if applicable. While maintaining
12 muzzle awareness, that is, the firearm is pointed in a safe
13 direction, preferably down at the ground, and trigger discipline,
14 that is, the trigger finger is outside of the trigger guard and along
15 side of the handgun frame, at all times, the handgun recipient
16 shall correctly and safely perform the following:

17 (i) If the handgun is a semiautomatic pistol:

18 (I) Remove the magazine.

19 (II) Lock the slide back. If the model of firearm does not allow
20 the slide to be locked back, pull the slide back, visually and
21 physically check the chamber to ensure that it is clear.

22 (III) Visually and physically inspect the chamber, to ensure
23 that the handgun is unloaded.

24 (IV) Remove the firearm safety device, if applicable. If the
25 firearm safety device prevents any of the previous steps, remove
26 the firearm safety device during the appropriate step.

27 (V) Load one bright orange, red, or other readily identifiable
28 dummy round into the magazine. If no readily identifiable
29 dummy round is available, an empty cartridge casing with an
30 empty primer pocket may be used.

31 (VI) Insert the magazine into the magazine well of the firearm.

32 (VII) Manipulate the slide release or pull back and release the
33 slide.

34 (VIII) Remove the magazine.

35 (IX) Visually inspect the chamber to reveal that a round can be
36 chambered with the magazine removed.

37 (X) Lock the slide back to eject the bright orange, red, or other
38 readily identifiable dummy round. If the handgun is of a model
39 that does not allow the slide to be locked back, pull the slide back
40 and physically check the chamber to ensure that the chamber is

1 clear. If no readily identifiable dummy round is available, an
2 empty cartridge casing with an empty primer pocket may be
3 used.

4 (XI) Apply the safety, if applicable.

5 (XII) Apply the firearm safety device, if applicable. This
6 requirement shall not apply to an Olympic competition pistol if
7 no firearms safety device, other than a cable lock that the
8 department has determined would damage the barrel of the pistol,
9 has been approved for the pistol, and the pistol is either listed in
10 paragraph (2) of subdivision (h) of Section 12132 or is subject to
11 paragraph (3) of subdivision (h) of Section 12132.

12 (ii) If the handgun is a double-action revolver:

13 (I) Open the cylinder.

14 (II) Visually and physically inspect each chamber, to ensure
15 that the revolver is unloaded.

16 (III) Remove the firearm safety device. If the firearm safety
17 device prevents any of the previous steps, remove the firearm
18 safety device during the appropriate step.

19 (IV) While maintaining muzzle awareness and trigger
20 discipline, load one bright orange, red, or other readily
21 identifiable dummy round into a chamber of the cylinder and
22 rotate the cylinder so that the round is in the next-to-fire position.
23 If no readily identifiable dummy round is available, an empty
24 cartridge casing with an empty primer pocket may be used.

25 (V) Close the cylinder.

26 (VI) Open the cylinder and eject the round.

27 (VII) Visually and physically inspect each chamber to ensure
28 that the revolver is unloaded.

29 (VIII) Apply the firearm safety device, if applicable. This
30 requirement shall not apply to an Olympic competition pistol if
31 no firearms safety device, other than a cable lock that the
32 department has determined would damage the barrel of the pistol,
33 has been approved for the pistol, and the pistol is either listed in
34 paragraph (2) of subdivision (h) of Section 12132 or is subject to
35 paragraph (3) of subdivision (h) of Section 12132.

36 (iii) If the handgun is a single-action revolver:

37 (I) Open the loading gate.

38 (II) Visually and physically inspect each chamber, to ensure
39 that the revolver is unloaded.

1 (III) Remove the firearm safety device required to be sold with
2 the handgun. If the firearm safety device prevents any of the
3 previous steps, remove the firearm safety device during the
4 appropriate step.

5 (IV) Load one bright orange, red, or other readily identifiable
6 dummy round into a chamber of the cylinder, close the loading
7 gate and rotate the cylinder so that the round is in the next-to-fire
8 position. If no readily identifiable dummy round is available, an
9 empty cartridge casing with an empty primer pocket may be
10 used.

11 (V) Open the loading gate and unload the revolver.

12 (VI) Visually and physically inspect each chamber to ensure
13 that the revolver is unloaded.

14 (VII) Apply the firearm safety device, if applicable. This
15 requirement shall not apply to an Olympic competition pistol if
16 no firearms safety device, other than a cable lock that the
17 department has determined would damage the barrel of the pistol,
18 has been approved for the pistol, and the pistol is either listed in
19 paragraph (2) of subdivision (h) of Section 12132 or is subject to
20 paragraph (3) of subdivision (h) of Section 12132.

21 ~~(E)~~

22 (D) The recipient shall receive instruction regarding how to
23 render that handgun safe in the event of a jam.

24 ~~(F)~~

25 (E) The firearms dealer shall sign and date an affidavit stating
26 that the requirements of subparagraph ~~(D)~~(C) have been met. The
27 firearms dealer shall additionally obtain the signature of the
28 handgun purchaser on the same affidavit. The firearms dealer
29 shall retain the original affidavit as proof of compliance with this
30 requirement.

31 ~~(G)~~

32 (F) The recipient shall perform the safe handling
33 demonstration for a department certified instructor.

34 ~~(H)~~

35 (G) No demonstration shall be required if the dealer is
36 returning the handgun to the owner of the handgun.

37 ~~(I)~~

38 (H) Department certified instructors who may administer the
39 safe handling demonstration shall meet the requirements set forth
40 in subdivision (j) of Section 12804.

1 ~~(J)~~

2 (I) The persons who are exempt from the requirements of
3 subdivision (b) of Section 12801, pursuant to Section 12807, are
4 also exempt from performing the safe handling demonstration.

5 (9) Commencing July 1, 1992, the licensee shall offer to
6 provide the purchaser or transferee of a firearm, or person being
7 loaned a firearm, with a copy of the pamphlet described in
8 Section 12080 and may add the cost of the pamphlet, if any, to
9 the sales price of the firearm.

10 (10) The licensee shall not commit an act of collusion as
11 defined in Section 12072.

12 (11) The licensee shall post conspicuously within the licensed
13 premises a detailed list of each of the following:

14 (A) All charges required by governmental agencies for
15 processing firearm transfers required by Sections 12076, 12082,
16 and 12806.

17 (B) All fees that the licensee charges pursuant to Sections
18 12082 and 12806.

19 (12) The licensee shall not misstate the amount of fees charged
20 by a governmental agency pursuant to Sections 12076, 12082,
21 and 12806.

22 (13) The licensee shall report the loss or theft of any firearm
23 that is merchandise of the licensee, any firearm that the licensee
24 takes possession of pursuant to Section 12082, or any firearm
25 kept at the licensee's place of business within 48 hours of
26 discovery to the appropriate law enforcement agency in the city,
27 county, or city and county where the licensee's business premises
28 are located.

29 (14) Any time when the licensee is not open for business, the
30 licensee shall store all firearms kept in his or her licensed place
31 of business using one of the following methods as to each
32 particular firearm:

33 (A) Store the firearm in a secure facility that is a part of, or
34 that constitutes, the licensee's business premises.

35 (B) Secure the firearm with a hardened steel rod or cable of at
36 least one-eighth inch in diameter through the trigger guard of the
37 firearm. The steel rod or cable shall be secured with a hardened
38 steel lock that has a shackle. The lock and shackle shall be
39 protected or shielded from the use of a bolt cutter and the rod or

1 cable shall be anchored in a manner that prevents the removal of
2 the firearm from the premises.

3 (C) Store the firearm in a locked fireproof safe or vault in the
4 licensee's business premises.

5 (15) The licensing authority in an unincorporated area of a
6 county or within a city may impose security requirements that are
7 more strict or are at a higher standard than those specified in
8 paragraph (14).

9 (16) Commencing January 1, 1994, the licensee shall, upon the
10 issuance or renewal of a license, submit a copy of the same to the
11 Department of Justice.

12 (17) The licensee shall maintain and make available for
13 inspection during business hours to any peace officer, authorized
14 local law enforcement employee, or Department of Justice
15 employee designated by the Attorney General, upon the
16 presentation of proper identification, a firearms transaction
17 record.

18 (18) (A) On the date of receipt, the licensee shall report to the
19 Department of Justice in a format prescribed by the department
20 the acquisition by the licensee of the ownership of a pistol,
21 revolver, or other firearm capable of being concealed upon the
22 person.

23 (B) The provisions of this paragraph shall not apply to any of
24 the following transactions:

25 (i) A transaction subject to the provisions of subdivision (n) of
26 Section 12078.

27 (ii) The dealer acquired the firearm from a wholesaler.

28 (iii) The dealer is also licensed as a secondhand dealer
29 pursuant to Article 4 (commencing with Section 21625) of
30 Chapter 9 of Division 8 of the Business and Professions Code.

31 (iv) The dealer acquired the firearm from a person who is
32 licensed as a manufacturer or importer to engage in those
33 activities pursuant to Chapter 44 (commencing with Section 921)
34 of Title 18 of the United States Code and any regulations issued
35 pursuant thereto.

36 (v) The dealer acquired the firearm from a person who resides
37 outside this state who is licensed pursuant to Chapter 44
38 (commencing with Section 921) of Title 18 of the United States
39 Code and any regulations issued pursuant thereto.

1 (19) The licensee shall forward in a format prescribed by the
2 Department of Justice, information as required by the department
3 on any firearm that is not delivered within the time period set
4 forth in Section 478.102(c) of Title 27 of the Code of Federal
5 Regulations.

6 (20) (A) Firearms dealers may require any agent who handles,
7 sells, or delivers firearms to obtain and provide to the dealer a
8 certificate of eligibility from the department pursuant to
9 paragraph (4) of subdivision (a). The agent or employee shall
10 provide on the application, the name and California firearms
11 dealer number of the firearms dealer with whom he or she is
12 employed.

13 (B) The department shall notify the firearms dealer in the
14 event that the agent or employee who has a certificate of
15 eligibility is or becomes prohibited from possessing firearms.

16 (C) If the local jurisdiction requires a background check of the
17 agents or employees of the firearms dealer, the agent or
18 employee shall obtain a certificate of eligibility pursuant to
19 subparagraph (A).

20 (D) Nothing in this paragraph shall be construed to preclude a
21 local jurisdiction from conducting an additional background
22 check pursuant to Section 11105 or prohibiting employment
23 based on criminal history that does not appear as part of
24 obtaining a certificate of eligibility, provided however, that the
25 local jurisdiction may not charge a fee for the additional criminal
26 history check.

27 (E) The licensee shall prohibit any agent who the licensee
28 knows or reasonably should know is within a class of persons
29 prohibited from possessing firearms pursuant to Section 12021 or
30 12021.1 of this code, or Section 8100 or 8103 of the Welfare and
31 Institutions Code, from coming into contact with any firearm that
32 is not secured and from accessing any key, combination, code, or
33 other means to open any of the locking devices described in
34 clause (ii) of subparagraph (G) of this paragraph.

35 (F) Nothing in this paragraph shall be construed as preventing
36 a local government from enacting an ordinance imposing
37 additional conditions on licensees with regard to agents.

38 (G) For purposes of this section, the following definitions shall
39 apply:

40 (i) An “agent” is an employee of the licensee.

(ii) “Secured” means a firearm that is made inoperable in one or more of the following ways:

(I) The firearm is inoperable because it is secured by a firearms safety device listed on the department’s roster of approved firearms safety devices pursuant to subdivision (d) of Section 12088 of this chapter.

(II) The firearm is stored in a locked gun safe or long-gun safe which meets the standards for department-approved gun safes set forth in Section 12088.2.

(III) The firearm is stored in a distinct locked room or area in the building that is used to store firearms that can only be unlocked by a key, a combination, or similar means.

(IV) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(c) (1) As used in this article, “clear evidence of his or her identity and age” means either of the following:

(A) A valid California driver’s license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a “secure facility” means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least ½-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee’s premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

1 (C) Heating, ventilating, air-conditioning, and service
2 openings are secured with steel bars, metal grating, or an alarm
3 system.

4 (D) Any metal grates have spaces no larger than six inches
5 wide measured in any direction.

6 (E) Any metal screens have spaces no larger than three inches
7 wide measured in any direction.

8 (F) All steel bars shall be no further than six inches apart.

9 (3) As used in this section, “licensed premises,” “licensed
10 place of business,” “licensee’s place of business,” or “licensee’s
11 business premises” means the building designated in the license.

12 (4) For purposes of paragraph (17) of subdivision (b):

13 (A) A “firearms transaction record” is a record containing the
14 same information referred to in subdivision (a) of Section
15 478.124, Section 478.124a, and subdivision (e) of Section
16 478.125 of Title 27 of the Code of Federal Regulations.

17 (B) A licensee shall be in compliance with the provisions of
18 paragraph (17) of subdivision (b) if he or she maintains and
19 makes available for inspection during business hours to any
20 peace officer, authorized local law enforcement employee, or
21 Department of Justice employee designated by the Attorney
22 General, upon the presentation of proper identification, the bound
23 book containing the same information referred to in Section
24 478.124a and subdivision (e) of Section 478.125 of Title 27 of
25 the Code of Federal Regulations and the records referred to in
26 subdivision (a) of Section 478.124 of Title 27 of the Code of
27 Federal Regulations.

28 (d) Upon written request from a licensee, the licensing
29 authority may grant an exemption from compliance with the
30 requirements of paragraph (14) of subdivision (b) if the licensee
31 is unable to comply with those requirements because of local
32 ordinances, covenants, lease conditions, or similar circumstances
33 not under the control of the licensee.

34 (e) (1) Except as otherwise provided in this paragraph, the
35 Department of Justice shall keep a centralized list of all persons
36 licensed pursuant to subparagraphs (A) to (E), inclusive, of
37 paragraph (1) of subdivision (a), and all persons who have
38 submitted information pursuant to subdivision (a) of Section
39 12083. The department may remove from this list any person
40 who knowingly or with gross negligence violates this article.

1 Upon removal of a dealer from this list, notification shall be
2 provided to local law enforcement and licensing authorities in the
3 jurisdiction where the dealer's business is located.

4 (2) The department shall remove from the centralized list any
5 person whose federal firearms license has expired or has been
6 revoked.

7 (3) Information compiled from the list shall be made available,
8 upon request, for the following purposes only:

9 (A) For law enforcement purposes.

10 (B) When the information is requested by a person licensed
11 pursuant to Chapter 44 (commencing with Section 921) of Title
12 18 of the United States Code for determining the validity of the
13 license for firearm shipments.

14 (C) When information is requested by a person promoting,
15 sponsoring, operating, or otherwise organizing a show or event as
16 defined in Section 478.100 of Title 27 of the Code of Federal
17 Regulations, or its successor, who possesses a valid certificate of
18 eligibility issued pursuant to Section 12071.1, if that information
19 is requested by the person to determine the eligibility of a
20 prospective participant in a gun show or event to conduct
21 transactions as a firearms dealer pursuant to subparagraph (B) of
22 paragraph (1) of subdivision (b).

23 (4) Information provided pursuant to paragraph (3) shall be
24 limited to information necessary to corroborate an individual's
25 current license status as being one of the following:

26 (A) A person licensed pursuant to subparagraphs (A) to (E),
27 inclusive, of paragraph (1) of subdivision (a).

28 (B) A person licensed pursuant to Chapter 44 (commencing
29 with Section 921) of Title 18 of the United States Code and who
30 is not subject to the requirement that he or she be licensed
31 pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1)
32 of subdivision (a).

33 (f) The Department of Justice may inspect dealers to ensure
34 compliance with this article. The department may assess an
35 annual fee, not to exceed one hundred fifteen dollars (\$115), to
36 cover the reasonable cost of maintaining the list described in
37 subdivision (e), including the cost of inspections. Dealers whose
38 place of business is in a jurisdiction that has adopted an
39 inspection program to ensure compliance with firearms law shall
40 be exempt from that portion of the department's fee that relates

1 to the cost of inspections. The applicant is responsible for
2 providing evidence to the department that the jurisdiction in
3 which the business is located has the inspection program.

4 (g) The Department of Justice shall maintain and make
5 available upon request information concerning the number of
6 inspections conducted and the amount of fees collected pursuant
7 to subdivision (f), a listing of exempted jurisdictions, as defined
8 in subdivision (f), the number of dealers removed from the
9 centralized list defined in subdivision (e), and the number of
10 dealers found to have violated this article with knowledge or
11 gross negligence.

12 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
13 a licensee organized as a nonprofit public benefit or mutual
14 benefit corporation organized pursuant to Part 2 (commencing
15 with Section 5110) or Part 3 (commencing with Section 7110) of
16 Division 2 of the Corporations Code, if both of the following
17 conditions are satisfied:

18 (1) The nonprofit public benefit or mutual benefit corporation
19 obtained the dealer's license solely and exclusively to assist that
20 corporation or local chapters of that corporation in conducting
21 auctions or similar events at which firearms are auctioned off to
22 fund the activities of that corporation or the local chapters of the
23 corporation.

24 (2) The firearms are not pistols, revolvers, or other firearms
25 capable of being concealed upon the person.

26 (i) (1) For every verification inquiry made pursuant to
27 paragraph (1) of subdivision (f) of Section 12072, the department
28 shall determine whether the intended recipient possesses an
29 appropriate, valid license issued pursuant to Chapter 44
30 (commencing with Section 921) of Title 18 of the United States
31 Code and, if applicable, is properly licensed pursuant to this
32 section.

33 (2) If the intended recipient possesses an appropriate, valid
34 license issued pursuant to Chapter 44 (commencing with Section
35 921) of Title 18 of the United States Code, and if applicable, is
36 properly licensed pursuant to this section, the department shall
37 immediately provide a unique verification number to the
38 inquiring party.

39 (3) If the intended recipient does not possess an appropriate,
40 valid license issued pursuant to Chapter 44 (commencing with

1 Section 921) of Title 18 of the United States Code, or if
2 applicable, is not properly licensed pursuant to this section, the
3 department shall do all of the following:

4 (A) Immediately notify the inquiring party of that fact.

5 (B) Within 24 hours, notify the chief law enforcement officer
6 of the jurisdiction where the address on the federal firearms
7 license about which the inquiry was made is located, and notify
8 an appropriate employee of the federal Bureau of Alcohol,
9 Tobacco and Firearms of the denied verification.

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the
15 penalty for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition of a
17 crime within the meaning of Section 6 of Article XIII B of the
18 California Constitution.

19
20 _____
21 CORRECTIONS:

22 Text - Pages 2, 3, 4, 5, 8, 11, 12, 14, 16, 17, 18, and 21
23 _____